

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	CHARLES R. NORGLÉ, SR.	Sitting Judge If Other than Assigned Judge	
CASE NUMBER	04 C 3052 (Appeal No. 04-1889)	DATE	10/22/2004
CASE TITLE	Harvey Wright (2003-0025183) v. Paul Laurent, et al.		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Plaintiff's motion for leave to appeal *in forma pauperis* [16] is denied. The court certifies that the appeal is not taken in good faith and orders plaintiff to pay the appellate fees of \$255 within 14 days or the Court of Appeals may dismiss his appeal for want of prosecution. The clerk is directed to send a copy of this order to the trust fund officer at Cook County Jail Correctional Center and the PLRA Attorney, U.S. Court of Appeals.

Charles Hough
the original minute order.]

- (11) ■ [For further detail see order on the reverse side of the original minute order.]

	No notices required, advised in open court.	<div> <div>number of notices</div> <div>OCT 25 2004</div> <div>date docketed</div> <div>GMA</div> <div>docketing deputy initials</div> <div>date mailed notice</div> <div>mailing deputy initials</div> </div>	<div>Document Number</div> <div>17</div>
	No notices required.		
	Notices mailed by judge's staff.		
	Notified counsel by telephone.		
X	Docketing to mail notices.		
	Mail AO 450 form.		
	Copy to judge/magistrate judge.		
CLH	courtroom deputy's initials	<div> <div>DATE RECEIVED</div> <div>10-25-04 10:11:51</div> <div>10-25-04 10:11:51</div> <div>10-25-04 10:11:51</div> </div>	<div>Date/time received in central Clerk's Office</div>

ORDER

Plaintiff has filed a notice of appeal from the judgment entered on May 14, 2004, and seeks leave to proceed *in forma pauperis*. For the reasons stated in the May 13, 2004, order, the court finds that this action does not raise a substantial issue meriting appellate review. As plaintiff has raised none in his motion for leave to appeal *in forma pauperis*, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that the appeal is not in good faith and that no appeal should be taken.

The Seventh Circuit Court of Appeals has determined that if the district court certifies that an appeal is not taken in good faith, the appellant cannot prosecute the appeal *in forma pauperis* but rather must pay the appellate fees in full for the appeal to go forward. Consequently, plaintiff must pay the full \$255 within 14 days or the Court of Appeals may dismiss his appeal for want of prosecution. *See Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997), overruled on other grounds by *Lee v. Clinton*, 209 F.3d 1025 (7th Cir. 2000), and *Walker v. O'Brien*, 216 F.3d 626 (7th Cir. 2000). If the plaintiff wishes to contest this court's finding that the appeal is not taken in good faith, he must file a motion with the Court of Appeals seeking review of this court's certification within 30 days after service of this order. *See Fed. R. App. P. 24(a)*.

In sum, plaintiff's motion for leave to appeal *in forma pauperis* is denied. Plaintiff is ordered to remit to the Clerk of the Court the \$255 appellate fee within 14 days of the date of this order. If plaintiff fails to comply with this order, the Court of Appeals may dismiss his appeal for want of prosecution. Plaintiff is responsible for ensuring payment of the filing fees as directed by this order, and should ensure that the institution having custody of him transmits the necessary funds. Nonpayment for any reason other than destitution shall be construed as a voluntary relinquishment of the right to file future suits *in forma pauperis*. *Thurman v. Gramley*, 97 F.3d 185, 188 (7th Cir. 1996). The obligation to ensure full payment of the filing fees imposed by this order shall not be relieved by release or transfer to another prison. Plaintiff is under a continuing obligation to inform the Clerk of this Court in writing of any change of address within seven days.

Payment shall be sent to the Clerk, United States District Court, 219 S. Dearborn St., Chicago, IL 60604, attn: Fiscal Dept., and shall clearly identify plaintiff's name and the case number assigned to this action and the docket number assigned to the appeal, which is No. 04-1889.

The clerk is directed to send a copy of this order to the trust fund officer at Cook County Jail and the PLRA Attorney, United States Court of Appeals for the Seventh Circuit.